BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation Against:	)	
SIMMI P. DHALIWAL, M.D.	)	**Case No. 18-2013-234709**
Physician's and Surgeon's Certificate No. A63694	)	
Respondent	)	

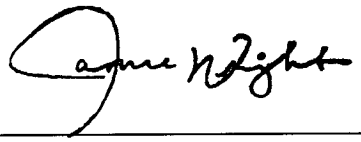
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on December 16, 2016.

IT IS SO ORDERED: November 16, 2016.

MEDICAL BOARD OF CALIFORNIA



Jamie Wright, J.D., Chair
Panel A

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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation Against: **SIMMI P. DHALIWAL, M.D.** **160 East Artesia Street #330** **Pomona, CA 91767** **Physician's and Surgeon's Certificate No. A 63694** Respondent.	Case No. 18-2013-234709 OAH No. 2015111057 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Medical Board of California of the Department of Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval and adoption as the final disposition of the First Amended Accusation.

PARTIES

1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Richard D. Marino, Deputy Attorney General.

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2. Respondent SIMMI P. DHALIWAL, M.D. ("Respondent") is represented in this proceeding by attorney Peter R. Osinoff, whose address is: Bonne, Bridges, Mueller, O'Keefe & Nichols, 3699 Wilshire Boulevard, 10th Floor. Los Angeles, CA 90010

3. On or about October 17, 1997, the Medical Board of California issued Physician's and Surgeon's Certificate No. A 63694 to SIMMI P. DHALIWAL, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 18-2013-234709, and will expire on August 31, 2017, unless renewed.

JURISDICTION

4. First Amended Accusation No. 18-2013-234709 was filed before the Medical Board of California (Board), Department of Consumer Affairs, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on April 26, 2016. Respondent timely filed her Notice of Defense contesting the First Amended Accusation.

5. A copy of First Amended Accusation No. 18-2013-234709 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 18-2013-234709. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in First Amended Accusation No. 18-2013-234709, if proven at a hearing, constitute cause for imposing discipline upon her Physician's and Surgeon's Certificate.

10. For the purpose of resolving the First Amended Accusation without the expense and uncertainty of further proceedings, Respondent does not contest that, at an administrative hearing, complainant could establish a *prima facie* case with respect to the charges and allegations contained in First Amended AccusationNo. 18-2013-234709 and that she has thereby subjected her license to disciplinary action for committing repeated negligent acts and failing to maintain adequate medical records as alleged in the Second Cause for Discipline and Third Cause for Discipline, respectively, and that Respondent hereby gives up her right to contest those charges.

11. Respondent agrees that if she ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in First Amended Accusation No. 18-2013-234709 shall be deemed true, correct and fully admitted by respondent for purposes of that proceeding or any other licensing proceeding involving respondent in the State of California.

11. Respondent agrees that her Physician's and Surgeon's Certificate is subject to discipline and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails

to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 63694 issued to Respondent SIMMI P. DHALIWAL, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for thirty-five (35) months on the following terms and conditions.

1. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

2. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping equivalent to the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education

Program, University of California, San Diego School of Medicine (Program), approved in advance by the Board or its designee. Respondent shall provide the program with any information and documents that the Program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

3. MONITORING - PRACTICE/BILLING. Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed

statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor(s) shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine and whether Respondent is practicing medicine safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

In lieu of a monitor, Respondent may participate in a professional enhancement program

equivalent to the one offered by the Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine, that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

4. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

5. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is prohibited from supervising physician assistants.

6. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

7. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

8. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit and all terms and conditions of this Decision.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event Respondent should leave the State of California to reside or to practice Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

9. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

10. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month

in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete a clinical training program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; and General Probation Requirements.

11. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

12. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

13. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy

the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

14. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Peter R. Osinoff. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 8/25/16

SIMMI P. DHALIWAL, M.D.
Respondent

I have read and fully discussed with Respondent SIMMI P. DHALIWAL, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 8/26/16

PETER R. OSINOFF
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: August 29, 2014

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

RICHARD D. MARINO
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 18-2013-234709

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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation Against: **SIMMI P. DHALIWAL, M.D.** **160 East Artesia Street , No. 330** **Pomona, CA 91767** **Physician's and Surgeon's Certificate No. A 63694** Respondent.	Case No. 18-2013-234709 consolidated with Case Nol 800-2014-008416 **First Amended Accusation**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this First Amended Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs, State of California (Board).

2. On or about October 17, 1997, the Board issued Physician's and Surgeon's Certificate Number A 63694 to SIMMI P. DHALIWAL, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2017, unless renewed.

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JURISDICTION

3. This First Amended Accusation is brought before Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code provides:

"(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

"(1) Have his or her license revoked upon order of the board.

"(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

"(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

"(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

"(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

"(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1."

5. Section 2234 of the Code, in pertinent part, provides:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"...."

6. Section 2266 of the Code provides:

"The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

7. Respondent is subject to disciplinary action under Business and Professions Code section 2234, subdivision (b), in that she committed gross negligence during the delivery of R.P.,[1] born to 17 year old D.M. on or about April 19, 2008, as follows:

[1] The patient and his mother are identified solely by their initials in order to preserve their rights of privacy. The true name of these individuals are known to Respondent and, in any event, will be disclosed to Respondent upon her timely request for discovery.

A. D.M., then 17 years old, was an obese female who first presented to Respondent on or about November 9, 2008. She was pregnant for the first time. Her estimated gestational age was 15 weeks, four days. D.M. saw Respondent on several occasions during the ensuing five months. D.M.'s last prenatal visit was on April 17, 2008. On that day, D.M. had a markedly elevated blood pressure of 178 over 108. Respondent did not immediately schedule an induction of labor or otherwise address the patient's hypertension.

B. On or about April 18, 2008, D.M. was admitted to Pomona Valley Hospital. There was no documentary evidence that Respondent advised D.M. to admit herself on that day.

C. On April 19, 2008, a vacuum assisted vaginal delivery was performed by Respondent. The hospital records show that the head of D.M.'s newborn son, R.P., was delivered, in the occiput anterior position, at or around 6:40 p.m.; R.P.'s body followed approximately three minutes later, concluding a one hour, 13 minute second stage of labor. A median episiotomy was cut.

D. The delivery was complicated by shoulder dystocia, variable decelerations, and meconium; and, R.P. was admitted to the Neonatal Intensive Care Unit (NICU) due to respiratory distress and meconium aspiration syndrome, requiring intubation and ventilation.

E. The applicable standard of care requires that a physician and surgeon, in the course of rendering prenatal care, identify and address all high risk factors, including but not limited to risk factors for shoulder dystocia and the development of gestational hypertension and/or preeclampsia.

F. The applicable standard of care requires that when considering an operative vaginal delivery, as was done in this case, the physician and surgeon advise the patient of the risks, benefits and other available options.

G. The applicable standard of care requires a physician and surgeon, upon recognizing a shoulder dystocia to institute six different measures rapidly. The measures

are: 1) discontinue oxytocin; 2) cease application of force; 3) instruct the mother to cease pushing; 4) lower the head of the bed; 5) call for assistance; and 6) start a clock.

II. The following acts and omissions, considered singularly and collectively, constitute extreme departures from the standard of care:

1) Respondent's failure to schedule D.M. for immediate induction of labor or otherwise address D.M.'s markedly elevated blood pressure on April 17, 2008.

2) Respondent's failure to address or document that she addressed the high risk factors attending D.M. delivery including, but not limited to, the patient's obesity.

3) Respondent's failure to advise D.M. of the risks, benefits and other available options for a successful delivery or, in the alternative, failing to document that she did so.

4) Respondent's failure to assess or, in the alternative, to document that she assessed the estimated fetal weight, station, position, and the application of negative pressure necessary to carry out a successful operative vaginal delivery.

5) Respondent's failure to institute the six measures to be followed upon recognizing a shoulder dystocia or, in the alternative, failing to document that she did so.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts—Patients R.P. and D.M. and Patient P.H.)

8. Respondent is subject to disciplinary action under Business and Professions Code section 2234, subdivision (c) , in that she committed repeated negligent acts during the prenatal care of D.M., and the delivery of D.M.'s son, R.P., and during her care, treatment and management of Patient P.H., as follows:

Patient R.P. and D.M.

A. Complainant refers to and, by this reference, incorporates herein, paragraph 7, above, as though fully set forth.

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Patient P.H.

B. P.H., a female, then 46 years old, first presented to Respondent in July 2011 with a complaint of vaginal bleeding. The Patient had a history of ulcerative colitis and a infraumbilical midline incision.

C. P.H. next presented about one month later. The laboratory results include small fibroids, a small polyp and a small ovarian cyst.

D. Based on these findings, Respondent recommended and performed an endometrial biopsy. The result of the endometrial biopsy was simple hyperplasia without atypia. Respondent discussed the options for treatment with the patient and offered her medical treatment with repeat endometrial biopsy, dilation and curettage with ablation, or hysterectomy.

E. Patient P.H. requested a hysterectomy with removal of both ovaries for definitive treatment. Respondent obtained consent for a robotic hysterectomy and discussed the risks of the procedure, which included the possibility of finding extensive adhesions that would require an open abdominal hysterectomy as opposed to the laparoscopic approach.

F. On October 19, 2011, Patient P.H. was taken to the operating room where she underwent a diagnostic laparoscopy and a total abdominal hysterectomy and bilateral salpingo-oophorectomy.

G. The findings at the time of surgery included an enlarged uterus with several small fibroids, normal ovaries and fallopian tubes. There were excessive thick adhesions from the small bowel and omentum to the anterior abdominal wall and the left pelvic sidewall. There were also adhesions in the right upper quadrant from the omentum to the abdominal wall. Respondent used a closed technique to enter the abdominal cavity with a Veress needle. Respondent placed the patient in maximum Trendelenburg position and then made a small incision in the umbilicus and inserted the Veress needle. After removing the Veress needle, Respondent placed a 5-mm trocar and was able to visualize the adhesions. She then placed a second 5-mm trocar under direct visualization in the area clear

of adhesions and used monopolar scissors for approximately 5 minutes in the attempt to lyse the adhesions. Respondent noted that the adhesions were very thick and extensive and included bowel and she did not feel as though it was safe to proceed with the robot. Respondent removed the instruments and proceeded with an uneventful total abdominal hysterectomy and bilateral salpingo-oophorectomy through a Pfannenstiel incision.

H. Patient P.H.'s post-operative course was eventful. On the first post-operative day, she was noted to have a pulse of 130 beats per minute. She was in moderate pain despite IV pain medication. A CBC was drawn, which showed a normal white blood count of 3.5; however, it showed 50% bands. The bandemia was not noted in the post-operative note.

I. On the second post-operative day, Respondent saw the patient again at approximately 1400 hours and noted that the patient remained on oxygen. Her pulse also remained at 130. Respondent ordered an EKG and a chest x-ray, increased the pain medication, and advised the patient to ambulate. A CBC drawn that day was not mentioned in the post-operative note but it showed a normal white blood count at 4.7 and again showed bandemia of 18%.

J. Respondent wrote a discharge order at 1420 on that day without any parameters.

K. Tachycardia persisted and Patient P.H. developed shortness of breath, pain with breathing and an oxygen saturation level of 82% for which the nursing staff called the Rapid Response Team.

L. The patient was transferred to a critical care bed with the diagnosis of acute hypoxic respiratory failure and peritonitis and the gynecologist on-call was notified.

M. Respondent had signed out to the on call doctor for the weekend. During that weekend, the patient's condition continued to worsen. A CT scan performed on the evening of 10/22/11 showed multiple fluid and air collections in the abdomen, mesentery and abdominal wall. Various medical specialists as well as the gynecologist on call evaluated the patient throughout the weekend. On the fifth postoperative day, a general surgeon was

consulted, who immediately made the diagnosis of a bowel perforation and took the patient to the operating room for a bowel resection. The patient remained in the hospital and was discharged on November 9, 2011.

N. During Respondent's care, treatment and management of Patient P.H., Respondent obtained informed consent and, on multiple occasions, discussed the risks, benefits, and alternatives to the surgery and included the additional risks due to the patient's earlier bowel surgery. As part of the alternatives to surgery, Respondent offered Patient P.H. an endometrial ablation which is contraindicated in the presence of endometrial hyperplasia, as this is considered a precancerous condition. During an interview with representatives of the Medical Board of California, Respondent explained that she would no longer operate on this patient but would refer her to the new gynecologic oncologist at Pomona Valley Hospital.

O. At the time of the interview, Respondent was aware that the patient's condition was precancerous since she would now refer the patient to an oncologist. Simple hyperplasia does not require referral to an oncologist but, given that the pathology of simple hyperplasia is considered a precancerous condition, the offering of endometrial ablation as an alternative was not appropriate.

P. Bowel injury is a known complication during the performance of a hysterectomy, whether it is performed laparoscopically or as an open procedure. The risk of bowel injury is increased in a patient who, like Patient P.H., had undergone a previous abdominal or bowel surgery and in a patient with a vertical midline incision.

Q. The standard of care dictates that when the patient is at a high risk for bowel injury, the surgeon must take all available precautions in order to avoid this complication and have a high index of suspicion of bowel injury if the patient's postoperative course is complicated. Respondent was well aware of the patient's high risk for pelvic adhesions. Patient P.H. had a vertical midline incision from a previous colectomy and on multiple occasions, Respondent discussed the high likelihood of adhesions with the patient.

R. There are several techniques that are well described and easily available to

decrease the risk of bowel injury in a patient with a midline abdominal incision and bowel surgery. The Veress needle may be inserted into the left upper quadrant and the camera port can be placed in this same area. The abdomen can then be inspected and all additional trocars can be placed under direct visualization to be sure that they do not injure the bowel. A second option is the Hasson open technique in which the surgeon uses a scalpel and is able to watch as the peritoneum is entered.

S. There is also less risk for injury when the Veress needle is placed while the patient is in the horizontal position. When the Veress needle and first trocar are placed while the patient is in the horizontal position, the anatomy is less distorted and the risk of injury is less. However, the patient should be placed in maximum Trendelenburg position until after placement of the Veresss needle and the first trocar.

T. In this case, Respondent put the patient in maximum Trendelenburg position before she inserted the Veress needle in the umbilical area in a patient with a midline vertical incision.

U. Bowel injury is a known complication of hysterectomy. In patients with extensive pelvic adhesions, the index of suspicion should be foremost in the mind of the operating surgeon if the postoperative course is not going as expected. Bowel injuries must be identified early and repaired in order to minimize morbidity and mortality.

V. Respondent saw Patient P.H. on the first and second postoperative days.

W. When the pulmonary embolism was ruled out and the admitting diagnosis to the ICU was peritonitis and respiratory failure in a patient who was healthy before surgery, a bowel injury should have been high on the differential diagnosis.

X. Given the patient's history of bowel surgery, the extensive adhesions with the attempt to lyse them prior to converting to an open procedure, the patient's pain level, her persistent tachycardia and her bandemia, the bowel injury should have been suspected on the first postoperative day and entertained, if not recognized, on the second postoperative day.

Y. The following acts and omissions constitute extreme departures from the standard of care:

1) As to Patient D.M., Respondent's failure to schedule D.M. for immediate induction of labor or otherwise address D.M.'s markedly elevated blood pressure on April 17, 2008.

2) As to Patient D.M., Respondent's failure to address or document that she addressed the high risk factors attending D.M. delivery including, but not limited to, the patient's obesity.

3) As to Patient D.M., Respondent's failure to advise D.M. of the risks, benefits and other available options for a successful delivery or, in the alternative, failing to document that she did so.

4) As to Patient D.M., Respondent's failure to assess or, in the alternative, to document that she assessed the estimated fetal weight, station, position, and the application of negative pressure necessary to carry out a successful operative vaginal delivery.

5) As to Patient D.M., Respondent's failure to institute the six measures to be followed upon recognizing a shoulder dystocia or, in the alternative, failing to document that she did so.

6) As to Patient P.H., offering her the alternative of endometrial ablation.

7) As to Patient P.H., not using a safer technique—e.g., inserting the Veress needle in a different manner or the Hasson open technique—to enter the abdomen of a patient with high risk for pelvic adhesions.

8) As to Patient P.H., failing to recognize, in a timely manner, that the patient had sustained a bowel injury.

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THIRD CAUSE FOR DISCIPLINE

(Failure To Maintain Adequate and Accurate Patient Records)

9. Respondent is subject to disciplinary action under Business and Professions Code section 2266 in that she failed to maintain adequate and accurate records relating to the provision of services to Patients D.M. and R.P. and Patient P.H., as follows:

A. Complainant refers to and, by this reference, incorporates herein, paragraphs 7 and 8, above, as though fully set forth.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 63694, issued to SIMMI P. DHALIWAL, M.D.;

2. Revoking or suspending approval of SIMMI P DHALIWAL, M.D.'s authority to supervise physician assistants, pursuant to Business and Professions Code section 3527 of the Code;

3. Ordering SIMMI P. DHALIWAL, M.D., if placed on probation, to pay the Medical Board of California the costs of probation monitoring; and,

4. Taking such other and further action as deemed necessary and proper.

DATED: April 26, 2016

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

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